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MONTANA LEGISLATIVE HISTORY

Chapter 250 1985

Bill H 288 S _____ Original bill & history ✓ C

H. Committee on State Admin.		S. Committee on State Admin.	
Hearing Date(s)	C	Hearing Date(s)	C
1/31	✓ C	3/18	✓ C
	C		C
	C		C
Date Out 2/12	✓ C	Out 3/18	✓

Did this bill originate in an interim committee? ___ Yes ✓ No

Committee _____ Report _____

		REPORT ADOPTED	50 0
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 678 EFFECTIVE DATE: 10/01/85		

HB 287 INTRODUCED BY JACK MOORE, GOODOVER, ET AL.
REVISING BUSINESS INVESTMENT TAX CREDIT

1/21	INTRODUCED		
1/21	REFERRED TO TAXATION		
1/22	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
3/22	HEARING		
	DIED IN COMMITTEE		

HB 288 INTRODUCED BY THOFT, HOLLIDAY, ET AL.
EARLIER PREPARATION OF ABSENTEE BALLOTS AND CHANGES IN RELATED DEADLINES

1/21	INTRODUCED		
1/21	REFERRED TO STATE ADMINISTRATION		
1/22	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/31	HEARING		
2/12	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/14	2ND READING PASS	95	0
2/16	3RD READING PASS	93	1
	TRANSMITTED TO SENATE		
2/18	REFERRED TO STATE ADMINISTRATION		
3/18	HEARING		
3/18	COMMITTEE REPORT-BILL CONCURRED		
3/21	2ND READING CONCURRED	48	0
3/23	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/26	SIGNED BY SPEAKER		
3/26	SIGNED BY PRESIDENT		
3/27	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 250 EFFECTIVE DATE: 1/1/86		

HB 289 INTRODUCED BY MARKS, LANE, KEENAN, ET AL.
BOULDER RIVER SCHOOL AND HOSPITAL RENAMED MONTANA DEVELOPMENTAL CENTER

1/21	INTRODUCED		
1/21	REFERRED TO STATE ADMINISTRATION		
1/31	HEARING		
1/31	COMMITTEE REPORT-BILL DO PASS		
2/02	2ND READING PASS	95	0
2/04	3RD READING PASS	100	0
	TRANSMITTED TO SENATE		
2/07	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/08	HEARING		

THIS BILL IS 39 PAGES LONG. IF YOU WOULD LIKE A COPY OF THE ENTIRE BILL, PLEASE CALL THE STATE LAW LIBARY (444-3660)

HOUSE BILL NO. 288

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM 14 DAYS TO 45 DAYS THE TIME PRIOR TO AN ELECTION THAT ABSENTEE BALLOTS MUST BE PREPARED; TO PROVIDE FOR CHANGES IN OTHER RELATED ELECTION DEADLINES TO REFLECT THE CHANGE IN THE ABSENTEE BALLOT DEADLINE; AND AMENDING SECTIONS 5-2-406, 7-2-2313, 7-2-4902, 7-3-149, 7-3-160, 7-3-176, 7-3-192, 7-3-4208, 7-3-4213, 7-3-4227, 7-3-4305, 7-3-4310, 7-3-4311, 7-4-2106, 7-4-2206, 7-5-136, 7-11-307, 7-13-2208, 7-13-2241, 7-13-2242, 7-13-2246, 7-13-2341, 7-33-2106, 7-34-2117, 13-10-201, 13-10-208, 13-10-325 THROUGH 13-10-327, 13-10-601, 13-12-201, 13-13-205, 13-14-118, 13-25-101, 13-25-203, 13-25-205, 13-26-103, 13-35-107, 22-1-304, 85-7-1702, AND 85-8-306, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-2-406, MCA, is amended to read:

"5-2-406. Elections to fill vacancies in senate. (1) Whenever a vacancy occurs ~~50~~ 75 days or more before the general election held during the second year of the term, an individual shall be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs ~~50~~ 75 days or more prior to the primary election during the second year, the same procedure as is used for senators who will be elected to full 4-year terms at that general election shall be utilized.

(b) Whenever the vacancy occurs on or after the ~~50th~~ 75th day prior to the primary election, any political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and 13-38-204. A political party shall notify the secretary of state of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate shall be filed with the secretary of state on or before the ~~40th~~ 65th day prior to the general election.

(2) Whenever a vacancy occurs on or after the ~~50th~~ 75th day prior to the general election held during the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

Section 2. Section 7-2-2313, MCA, is amended to read:

"7-2-2313. Procedure to hold special election. (1) Upon filing the petition or petitions, duly certified as provided in 7-2-2312, with the election administrator of the new county, he must immediately notify the chairman of the board of county commissioners who, upon receipt of such

INTRODUCED BILL
HB 288

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 31, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317, State Capitol.

ROLL CALL: Sixteen members present with Reps. Kennerly and Pistoria absent.

CONSIDERATION OF HOUSE BILL NO. 288: Rep. Thoft, District #63, sponsor of the bill, told the Committee that the bill changes the election laws in the state of Montana because the State is currently being sued by the federal government over the issue of absentee ballots. He handed out a fact sheet to the members which is attached as Exhibit #1.

PROPONENTS: Betty Lund, Election Administrator from Ravalli County, which is an appointed office and not elected, said that the bottom line is that in November of 1984 the State of Montana was sued by the federal government because the ballots were not out 45 days before the election. There is a 14 day deadline and that is not enough time for overseas mail. The canvassing of votes was not finished until 14 days after the election. As far as printing, this would give the printers one more day which is not a lot, but she said that the election administrators may have to work more closely with the printers to see that the work is done on time. She didn't think this was really a problem if there is a good printer.

She went on to explain the fact sheet, Exhibit #1, which was handed out by Rep. Thoft. She also said she called the Justice Department in Washington, D.C. and asked how many days they would give the State or if they would compromise. They told her they would not compromise and they would sue the State every year until complying with the law. The last page of the factsheet shows the present dates and law and what it would be if this bill is passed.

Mike Meloy, Montana Press Association, said that this bill ought to be considered with the other election bills in subcommittee to coincide the dates because it takes about three weeks to print the ballots.

Mike Stephens, Montana Clerk and Recorders' Association, handed out some proposed amendments, attached to the minutes, and also suggested an effective date of January 1, 1986 would be comfortable for most of their members.

Chip Erdmann, Montana School Boards Association, supported the concept of the bill, but said that Section 32 causes a problem with school elections. This would not give time for three levy elections and asked the Committee to keep this in mind when final consideration is taken by the Committee.

Larry Akey, Secretary of State's Office, supported the bill. He said it is the only alternative to be sued by the federal government for noncompliance.

Joanne Peres, Chouteau County Clerk and Recorder, was in support of the bill.

OPPONENTS: Bob Laumeyer, Superintendent of Schools, Boulder Public Schools, was not in favor of the bill. He said the school elections are the second Tuesday in April and at that time there is no indication from the Legislature what the funding will be and said that possibly school elections could be excluded from this.

There being no further proponents or opponents, the Committee then asked questions.

DISCUSSION OF HOUSE BILL NO. 288: Rep. Peterson asked if all counties are in the same type of situation. Ms. Lund stated it is a statewide problem. Rep. Peterson also asked if there was anything in the federal law that addresses the school situation that was presented at the meeting. Ms. Lund replied that they do not do the school elections unless they are requested to do so. She deferred to Mr. Akey on the question.

Mr. Akey said that there is no special section in Title 20 for absentee ballots. In that event, Title 13 becomes applicable. He didn't think it was a significant problem. They would just tell the officials to get the ballots out as quickly as possible and told the committee that this situation does not warrant rejection of the bill.

Rep. Cody said that many things can change in 45 days, including the ballot and Ms. Lund said that the withdrawal period at the present is 30 days. This would be changed to 75 days.

There were no further questions from the Committee.

Rep. Thoft closed his presentation saying that the Committee could consult with Mr. Akey or Ms. Lund if they have problems with the bill.

CONSIDERATION OF HOUSE BILL NO. 289: Rep. Bob Marks, District #75, sponsor, introduced this bill to change the name of the Boulder River School and Hospital to the Montana Developmental Center. The facility is no longer accredited with the State as a hospital and the educational facilities provided are a development process. The name change would more clearly reflect the real function of the facility. He said there were several people present to testify in support of the bill.

PROPONENTS: Bill Shoquist, who chaired the committee that was formed to come up with a change of name, said they advertised

Ex. #1
1/31/85
HB-288

FACT SHEET FOR
HOUSE BILL 288

1. State of Montana was sued on October 31, 1984 because our election law gives the counties until 14 days before the election as a deadline for mailing absentee ballots. See MCA 13-13-222. The Federal government requires a 45 day deadline. The Overseas Citizens Voting Rights Act, 42 U.S.C. 1973dd et seq., and the Federal Voting Assistance Act, 42 U.S.C. 1973cc (b) require that the states mail absentee ballots at least 45 days before the election. Therefore, the State of Montana counties had to hold the results open and could not declare any candidates as winners until 14 days after the election, giving the overseas ballots time to be received by the Election Administrators. There were 1811 international absentee ballots mailed out through out the State of Montana, 1290 were received before the polls closed on election day, 229 were counted at the end of the 14 day extension period.

2. This new bill gives the Election Administrators from two to seven more days ballot printing time.

3. This new bill gives the overseas voters more time to apply for a ballot, receive, vote and return it to the Election Administrator.

4. This new bill moves up the withdrawal deadline, therefore allowing the printers to begin printing immediately instead of waiting until 30 days before the election to make sure everything on the ballot will remain there.

5. This new bill allows a full time span for special district elections such as water/sewer district. The election date being set at "no less than 75 or more than 90 days" is the answer Election Administrators have been looking for.

6. Opponents of this bill believe that because the filing deadline has been moved up 25 days that the campaign period will be lengthened. Most serious candidates file in the first part of January but usually do not start to campaign until around the first part of May.

BALLOT SCHEDULE

UNDER LAW AS IT EXISTS TODAY:

Certification of Secretary of State to Election Administrator	Not more than 50 days and not less than 42 days before election		
Election Administrator takes ballot to Printer	Not more than 40 days and not less than 30 days before election	Not more than	40
Printer delivers ballot to EA	14 days before election	Deadline	14
			26 days
		Not less than	30
		Deadline	14
			16 days

H.B. 288 AS AMENDED

Certification of Secreatry of State to Election Administrator	Not more than 75 days and not less than 67 days before election		
Election Administrator takes ballot to Printer	Not more than 67 days and not less than 62 days before election	Not more than	67
Printer delivers ballot to EA	45 days before election	Deadline	45
			22 days
		Not less than	62
		Deadline	45
			17 days

ALAN D. ROBERTSON
Chief Legal Counsel
Office of the Secretary of State
State of Montana
State Capitol
Helena, MT 59620
(406) 444-2034

ATTORNEY FOR DEFENDENT
WALTERMIRE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

UNITED STATES OF AMERICA Plaintiff, v. STATE OF MONTANA; JIM WALTERMIRE, SECRETARY OF STATE OF THE STATE OF MONTANA, Defendents.	NO. CV-84-266-H DEFENDENT WALTERMIRE'S REPORT TO THE COURT

DEFENDENT JIM WALTERMIRE respectfully submits the attached documents in satisfaction of order item number four of that certain consent decree entered in the above captioned action on November 1, 1984.

Respectfully submitted this 2nd day of December, 1984.

Alan D. Robertson

IN ORDER TO COMPLY WITH THE ORDER OF THE FEDERAL COURT THIS FORM MUST BE COMPLETED AND RETURNED TO THE SECRETARY OF STATE NO LATER THAN DECEMBER 14, 1984

COMPLETE FOR ELECTION HELD NOVEMBER 6, 1984

COUNTY STATEWIDE TOTALS

1. Date first Absentee Ballot (any kind) mailed out 10/3/84

2. Date last International Absentee Ballot mailed out 11/5/84

3. Number of International Absentee Ballots mailed 1811

4. Number of valid International Absentee Ballots returned before close of polls 1290

5. Number of International Absentee Ballots returned after November 6 but before November 20 which were:

   a) Not counted because signed and dated after November 6 18

   b) Not counted because otherwise invalid 16

   c) Counted pursuant to the Court's Order 229

6. Number of International Absentee Ballots returned after November 20 and thus not counted 25

7. Number of all Absentee Ballots (not International) mailed

8. Number of non-international Absentee Ballots returned after close of polls and thus not counted

Signed _____
Election Administrator

Date _____

(COUNTY SEAL)

	1	2	3	4	5a	5b	5c	6
Beaverhead	10/10	10/12	16	15	0	1	0	0
Big Horn	10/29	10/30	10	1	0	0	7	0
Blaine	10/18	10/24	16	11	0	2	0	0
Broadwater	10/11	10/11	12	12	0	0	0	0
Carbon	10/17	10/18	28	19	1	0	2	0
Carter	10/9	10/9	5	5	0	0	0	0
Cascade	10/9	11/3	274	238	4	1	15	1
Chouteau	10/10	10/18	15	11	0	2	2	0
Custer	10/7	10/17	29	24	0	3	2	1
Daniels	10/5		0	0	0	0	0	0
Dawson	11/8	10/22	18	15	0	0	1	0
Deer Lodge	10/12	10/30	27	23	0	0	3	0
Fallon	10/23	10/23	5	3	0	1	0	0
Fergus	10/17	10/17	38	26	0	0	8	0
Flathead	10/22	10/23	23	9	0	0	4	0
Gallatin	10/13	10/29	152	98	0	0	37	3
Garfield	10/7	10/11	2	1	0	0	0	0
Glacier	10/16	10/18	10	8	0	0	2	0
Golden Valley	10/9	10/9	4	3	0	0	1	0
Granite	10/9	10/29	14	9	1	0	0	1
Hill	10/19	10/22	24	17	0	0	4	0
Jefferson	10/10	10/22	9	8	0	0	1	0
Judith Basin	10/4	10/4	2	2	0	0	0	0
Lake	10/10	10/22	58	36	1	0	9	0
Lewis & Clark	10/16	10/25	102	75	0	0	12	0
Liberty	10/11	10/11	3	3	0	0	0	0
Lincoln	10/23	11/5	47	16	1	2	13	15
Madison	10/16	10/23	20	13	0	0	6	0
McCone	10/9	10/12	4	3	0	0	0	0
Meagher	10/19	10/19	3	3	0	0	0	0
Mineral	10/11	10/22	13	8	0	0	2	0
Missoula	10/18	11/5	221	123	7	0	62	3
Musselshell	10/15	10/29	9	5	0	3	1	0
Park	10/11	10/29	28	21	0	1	1	0
Petroleum	10/15	N/A	0	0	0	0	0	0
Phillips	10/12	10/13	6	3	0	0	2	0
Pondera	10/10	10/10	18	15	0	0	0	0
Powder River	10/9	10/22	4	2	0	0	1	0
Powell	10/10	10/16	11	11	0	0	0	0
Prairie	10/10	10/10	8	4	0	0	0	0
Ravalli	10/4	10/29	66	49	0	0	8	0
Richland	10/15	10/26	21	14	0	0	4	0
Roosevelt	10/12	10/14	14	11	0	0	0	0
Rosebud	10/15	10/22	6	3	0	0	2	0
Sanders	10/10	10/26	26	16	0	0	3	0
Sheridan	10/11	10/12	12	11	0	0	0	0
Silver Bow	10/12	10/19	97	61	1	0	12	1
Stillwater	10/9	10/10	12	9	0	0	0	0
Sweet Grass	10/11	10/11	7	4	0	0	0	0
Teton	10/11	10/11	6	3	0	0	0	0
Toole	10/12	11/2	12	7	0	0	0	0
Treasure	10/10	10/10	1	0	0	0	1	0
Valley	10/17	10/18	16	12	1	0	1	0
Wheatland	10/9	10/9	9	8	0	0	0	0
Wibaux	10/17	10/17	1	1	0	0	0	0
Yellowstone	10/3	11/5	214	181	1	0	0	0
TOTAL			1811	1290	18	16	229	25

SECRETARY OF STATE
STATE OF MONTANA

Jim Waltermire
Secretary of State

State Capitol
Helena, Montana 59620

TO: Election Administrators

FROM: Jim Waltermire, Secretary of State

RE: Federal Court Action on International Absentee Ballots and other Federal Matters.

DATE: November 1, 1984

Yesterday the United States filed suit against the State of Montana regarding counting overseas absentee ballots after election day. And today, a Consent Decree is being entered requiring just that.

This action is part of the Department of Justice's ongoing effort to protect the voting rights of overseas citizens. That effort has resulted in many states being sued over the last six years -- three others on the same day Montana was -- and 19 states now counting at least some absentee ballots after election day.

We were first contacted by the Justice Department shortly after the CI-23 challenge was reported nationally. Their inquiry at that time was regarding how any order requiring reprinting of ballots would affect overseas voters. The law suit was in response to that inquiry.

I want to be clear that the State of Montana had no alternative. The federal law is pretty clear, and once the Justice Department undertook a legal action against Montana, we had no choice but to comply.

A copy of the Decree and Order is enclosed for your reference and review. But let me summarize the major provisions. They are:

1. You are ordered to count and include in the official results international absentee ballots received up to the close of business on November 20th.

2. This applies to all absentee ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. Basically that means any ballot mailed from outside the territorial borders of the U.S. This includes Canada and Mexico but does not include Alaska, Hawaii, Guam, or Puerto Rico.

3. It does not apply to any other absentee ballot. Any other absentee ballot must be received by you before the close of polls on election day or it must be rejected.

4. You are not permitted to count absentee ballots received after the deadline unless they come within this order (e.g. from another country).

5. It only applies to those international ballots that were: a) signed and dated on or before November 6th; b) received on or before the close of business on November 20th; and c) otherwise valid absentee ballots. If these three conditions are met, the ballots must be counted as validly cast and included in your final official canvass.

6. The ballots can not be counted if they are: a) signed and dated after November 6th; b) received by you after November 20th; c) or invalid for any reason other than being late.

7. You are further ordered to gather certain information and report to the Court by December 21, 1984.

8. There are two ways you can comply with the reporting provision.

   a) You can report directly to the Court yourself -- your County Attorney could assist you, or

   b) You can report the required information to us, by December 14th, and we will compile it and report it to the Court for you.

9. We've enclosed a form for your use should you chose to provide us with the information and avoid filing legal documents yourselves. Unless you return this completed form to us by December 14th, we will assume you will be filing your own documents directly.

That's the basic substance of the Court's order, now, how will that affect the canvass? Here are some points about that:

1. Your board of canvassers is still required to meet within 3 days after the election to canvass the returns. They should do that and proceed with the canvass to determine preliminary totals.

2. Since you should have records of everyone to whom an absentee ballot was sent -- and the address to which it was sent -- you may not have to wait the full 20 days.

3. If you did not mail any absentee ballots outside the U.S., then proceed with your canvass as you normally would.

4. If all the absentee ballots mailed outside the U.S. are returned before the close of polls on election day, then you can also proceed with the canvass in the normal fashion.

5. As soon as all your absentee ballots from outside the U.S. have been returned, you can complete the canvass. You don't have to wait the full 20 days if all ballots from other countries are accounted for.

6. In order to assure maximum secrecy for overseas voter's ballots, we recommend the following procedures:

   a) that you simply collect all absentee ballots received after the election from other countries and retain them unopened until after 1) the close of business on November 20th; or 2) all of those mailed have been returned, whichever is earlier;

   b) at that time, empanel a special counting board for absentee ballots under section 13-15-104 and process all the absentee ballots returned after the close of the polls at the same time;

c) validate and count the late ballots according to statutory procedures except as specifically modified by the Court Order;

d) have the judges report the results as usual;

e) have the board of canvassers canvass these results as it would other returns;

f) have the board of canvassers complete the canvass and forward to this office;

Finally, when the lawyers for the Justice Department were in town, they hand delivered a letter concerning two other issues where federal law supersedes Montana Law. These are:

1. Voters allowed to be assisted by "any person" of their choosing, not just a judge or qualified elector, and

2. Qualification of voters who are unable to sign their name.

A copy of their letter on these matters is enclosed for your reference. Please review it to be sure that your county complies. Basically the rules under federal law are:

1. A voter requiring assistance may be assisted by <u>any person</u> of their choice.

   - could include a child in high school

   - could include a friend who is unregistered or otherwise not qualified to vote

   <u>except</u>

   - their employer or

   - their union official

2. A voter who is unable to sign his name is <u>not</u> required to produce two witnesses to vouch for him <u>and may not</u> be denied the right to vote for failing to do so.

If you have questions on any of this, please consult your county attorney -- or feel free to contact me, my attorney, or the staff in the elections office.

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF MONTANA

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF MONTANA; JIM WALTERMIRE, SECRETARY OF STATE OF THE STATE OF MONTANA, Defendants.	Civil Action No. CONSENT DECREE

A. STIPULATIONS OF THE PARTIES

The United States of America, plaintiff, and the State of Montana and Jim Waltermire, Secretary of State of the State of Montana, defendants, stipulate and agree that:

1. This action was brought by the Attorney General on behalf of the United States to enforce the provisions of the Overseas Citizens Voting Rights Act, 42 U.S.C. 1973dd et seq., and the Federal Voting Assistance Act, 42 U.S.C. 1973cc(b).

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1345.

3. The Overseas Citizens Voting Rights Act guarantees to citizens residing outside the United States the right to register and vote absentee in elections conducted by the

state in which they last were domiciled (provided that certain minimum conditions are met). 42 U.S.C. 1973dd-1. The Federal Voting Assistance Act provides, inter alia, that members of the Armed Forces and merchant marine (and their spouses and dependents) located abroad, who are otherwise qualified to vote, have the right to register and vote absentee in federal elections conducted by the state of their voting residence. 42 U.S.C. 1973cc(b).

4. Under the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act, defendant State of Montana is charged with the responsibility of assuring that state election officials permit Montana voters to exercise their rights guaranteed by the said Acts. Defendant Jim Waltermire, sued in his official capacity as Secretary of State, is the chief election officer of the State of Montana and is responsible for the administration and enforcement of election laws in Montana.

5. The United States, by this action, seeks injunctive relief to remedy the failure of defendants to ensure that those individuals who are qualified and apply for absentee ballots, pursuant to the Overseas Citizens Voting Rights Act and Federal Voting Assistance Act, will be given a reasonable opportunity to execute and return such ballots before the close of the polls on November 6, 1984.

6. Montana election law provides only that absentee ballots must be mailed at least 14 days prior to the election. This, compiled with a late date for certification of the ballot by the Secretary of State (50 days prior to the election), results in preparation and mailing of absentee ballots being delayed until the middle of October.

7. Montana law provides that ballots received after the close of the polls on the day of the election are rejected. Mont. Code Ann. §13-13-232.

8. In 1984, the general election in Montana will be held on November 6, 1984. State election officials have received a substantial number of timely requests for absentee ballots from overseas citizens who are entitled to vote pursuant to the provisions of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

9. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials of Montana must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote and return the ballot to the office of the election official by the time the polls close on election day.

10. The mailing time (one way) between the United States and persons in foreign countries varies depending

upon the country of destination. A reasonable period for delivery is estimated by the United States Postal Service and the United States Department of State to be 10-14 days, each way, and the Military Postal Service Agency estimates that 30-35 days are necessary for a complete round trip.

11. Officials of the State of Montana have not mailed absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of November 6, 1984 to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by the close of the polls on November 6, 1984. In most sub-jurisdictions of the state absentee ballots were not mailed to overseas voters by the municipal clerks until mid-October, 1984, and it is unlikely that such late mailing will allow ballots to be received, executed and returned by November 6, 1984. For example, Flathead County did not begin to mail ballots to overseas citizens until October 22, 1984, allowing only 15 days for the round trip; Missoula County did not begin mailing these ballots until October 19-23, 1984, allowing only 14-18 days for the round trip; Lewis and Clark County (Helena) began mailing overseas ballots on October 17, 1984; Silver Bow County (Butte) began mailing overseas ballots on October 15, 1984; and Gallatin County began mailing overseas ballots on October 13, 1984.

12. The late mailing of absentee ballots to overseas citizens, coupled with the requirement that ballots be received by the close of the polls on election day in order to be counted, violates the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

13. To ensure that all citizens located abroad, protected under the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act and qualified to vote in Montana, have a reasonable opportunity to return their ballots for the November 6, 1984, general election, it is necessary that this Court enter an order extending by fourteen days the deadline for receipt of ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. Under this extension overseas ballots received by the close of business on November 20, 1984, will be accepted and tabulated in the final election results.

This consent decree is final and binding as to all issues resolved here.

B. ORDER

WHEREFORE, the parties having freely given their consent, and the terms of the decree being fair, reasonable and consistent with the requirements of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The State of Montana and defendants herein have not provided American citizens located abroad a reasonable opportunity to exercise their right to vote absentee in the November 6, 1984, federal election in violation of the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act.

2. The defendants shall take all steps necessary to ensure that all ballots cast pursuant to the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act which are signed and dated by voters on or before November 6, 1984, and received on or before the close of business on November 20, 1984, by the appropriate election officials, are counted as validly cast ballots, so long as the ballot would have been counted if it had been received by the close of the polls on election day.

3. The defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program (FVAP) as soon as this decree has been signed and request that the FVAP take such action as is necessary to notify overseas voters of the extension of time for receipt by Montana election officials of such ballots. The state shall assist the FVAP in whatever way necessary to publicize such extension of time.

4. Within 45 days after the 1984 general election, defendants shall file a report with this Court, with respect to the 1984 federal elections, which sets forth the following information:

(a) the dates on which each county began and completed the process of mailing ballots to citizens located in a foreign country for voting in the general election;

(b) the number of valid absentee ballots, by county, received before the close of the polls in the general election from citizens located in a foreign country;

(c) the number of absentee ballots, by county, in the general election received after November 6, 1984, which were counted pursuant to this Consent Decree; and

(d) the number of absentee ballots, by county, in the general election which were received after the close of the polls on election day from citizens located in a foreign country but not counted because signed after November 6 or received after the close of business on November 20, 1984.

5. The Court retains jurisdiction of this action for the purpose of enforcing the foregoing provisions.

ORDERED this day of 1984.

United States District Judge

The undersigned agrees to the entry of this Decree.

For the Plaintiff
United States of America:

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For the Defendants
State of Montana and the
Secretary of State of the
State of Montana

Judy Browning
Assistant Attorney General
for the State of Montana

Alan Robertson
Chief Counsel to Secretary
of State Jim Waltermire

- Begin Filing 13-10-201 (6)
until 50 days before Primary

- Begin Filing 13-10-201 (6)
until 75 days before Primary

FEB

- Mar 15 - Appoint & instruct Registrar's

6 - Pct. Boundaries finished 100 days before Primary 13-3-102

FEB

1 - Mar 15 - Appoint & instruct Registrar's

21 - Deadline filing Pres. Petitions 13-10-405
30 days before 75 days

26th - 13-3-102 - Pct Boundaries finished - 100 days before primary

MARCH

17 - Deadline filing Pres. Petitions w (2) 13-10-405
30 days before 50 days before Primary

22 - Begin Absentee Ballot period 75 days 13-13-211

MARCH

7th - 13-10-406 Notification of Petition Candidates suff sign - 15 days before 75 days
15th - 13-10-502 Petition for Sec state
15th - 13-10-503 Independent candidates - 1 week before 75 days
22nd - 13-10-201 Filing deadline - 75 days before Primary
22nd - 13-10-208 Certification Ballot from Sec State 75-67 day before Pri
22nd - 13-10-601 Political Parties eligible for Primary - file petitions with EA - forward Sec State 75 days before primary
22nd - 13-13-211 - Begin absentee ballot period

APRIL

1st - Notification of Pres Candidates suff sign. 13-10-406
15 days before 50
9 - Petition to Sec state
16 - Close of Registration
16 - Filing deadline 13-10-201
16 - Last day filing petitions for nomination by minor & ind parties
16 - Deadline for filing pres affidavits of noncand Sec State
16-24 Certification ballot Sec State
[illegible]

APRIL

1st - Ballot to printer by EA 67-62 days
- No more withdrawals 75 days - 13-10-325
13-10-326
16th - Close of Registration
22 - Ballots available for Absentee Ballot 45 days
13-13-205

6 - Last day Registration - cert. to Sec State

22 - 13-13-205 Absentee Ballots must be available

26 - June 3 Publish Polling places

JUNE

4 - Absentee Ballot close - Noon

5 - Primary

29 - Deadline for const + init. Pet. to EA for certif.

July

Deadline for init + const Pet See state 13-27-104
2nd Friday 4th month prior to election voting on

Aug

Deadline for filing petitions for nomination
by indep. pres candidates w/ EA
" w/ Sec State

13 - 16-2-201 Begin absentee ballot period 74 days

6 - Last day Registration - cert to Sec. State

26 - June 3. Publish Polling Places 13-3-105 (2)

JUNE

4 - Absentee Ballot close - Noon

5 - Primary

29 - Deadline for const + init Pet to EA. for certif

July

13 -

Aug

8th 16th 13-10-504 - 90 days before Gen - Indep or minor candidates file for pres to Sec State

9th 13-27-501 (4) - Last day (14 days before) cert by Sec State) to request abbrev. ballot

23rd - 75 - 67 days before gen - ballot certification by Sec State.

SEPT

5th - 13-27-301 (4) Last day to request abbrev. form 14 days prior to deadline ballot certif

17th 13-12-201 Last day Sec State certif Ballot
17th Close of Registration

SEPT

2nd - 13-10-327 - No more withdrawals 75 days before general, Ballot to printer by EA 67-62

22nd - 10-13-205 - 45 days before general absentee ballots available -

OCT

7th - Last day for delivery of voter pamphlets to EA
13-27-410

23rd - Absentee ballots must be available

OCT

7th - Last day for delivery of voter pamphlets to EA
13-27-410

NOV

5th Close ~~the~~ of absentee ballot
6th General Election

NOV

5th Close absentee ballot Noon
6th General Election

DEC

DEC

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 12, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales for executive action on the bills in the election subcommittee, therefore, he turned the presentation of these bills over to Rep. Harriet Hayne, Chairman of this subcommittee.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL NO. 262: Rep. Hayne read the title of the bill - setting the primary election date as the first Tuesday after the second Monday in September and eliminating the presidential preference primary. The subcommittee recommended a Do Not Pass on HB 262. Rep. Hayne moved that HB 262 DO NOT PASS. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 243: This is an open blanket primary with the two highest vote getters to be nominated. Rep. Fritz said that this bill defeats the primary purpose which is a nomination process to select the parties' candidates.

Rep. Hayne moved HB 243 DO NOT PASS, second received. Rep. Moore asked why they couldn't be on the one ballot. Rep. Fritz said the purpose of the primary is for the party to choose its candidates rather than the other party doing so. A primary is a public party caucus. Rep. Peterson said that the secretary of state wishes to keep the primary.

Rep. Phillips felt that the problem is at the local level - maybe this would be okay for the presidential and congressional but have one ballot for the local level. Rep. Peterson said they had not considered mixing the ballot as suggested by Rep. Phillips

Rep. Hayne's motion DO NOT PASS CARRIED with Reps. Phillips, Jenkins, Campbell, Sales and Hayne voting "no".

DISPOSITION OF HOUSE BILL NO. 288: Rep. Hayne reported that the committee recommended the adoption of the amendments, seconded by Rep. Compton. Motion CARRIED UNANIMOUSLY.

Rep. Hayne then moved that HB 288 DO PASS AS AMENDED, seconded by Rep. Harbin. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 650: A Statement of Intent was drafted to accompany this bill. Considerable discussion was held concerning the policies of the national Democratic party which states that you must indicate party preference when going to vote There has been a court order to the Democratic party to follow along the lines of the national by-laws. When a person signs to vote, there will be three boxes showing that you are going to vote Republican, Democratic or you are not going to vote in the

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 18, 1985

The forty-fourth meeting of the State Administration Committee was called to order by Chairman Jack Haffey in Room 331, Capitol, at 10 a.m. on Monday, March 18, 1985.

ROLL CALL: All the members were present with Senator Manning arriving late.

CONSIDERATION OF HOUSE BILL 288: Representative Bob Thoft, House District 63, is the sponsor of this bill entitled, "AN ACT TO INCREASE FROM 14 DAYS TO 45 DAYS THE TIME PRIOR TO AN ELECTION THAT ABSENTEE BALLOTS MUST BE PREPARED; TO PROVIDE FOR CHANGES IN OTHER RELATED ELECTION DEADLINES TO REFLECT THE CHANGE IN THE ABSENTEE BALLOT DEADLINE; AND AMENDING SECTIONS..., MCA." Representative Thoft told the Committee that this bill amended about 41 sections of law, but it doesn't do that many things. He said it deals with absentee ballots, and that we are being sued by the federal government because if these ballots are not mailed 45 days in advance the servicemen are not receiving them in time. Representative Thoft said that Betty Lund would explain this further.

PROPONENTS: Betty Lund, Ravalli County Election Administrator, Secretary of Montana Clerk & Recorders, supports this bill. Ms. Lund said that they have known for some time that the state's deadline for absentee ballots has not been in compliance with the Federal Government deadlines and as you know, the State of Montana was sued in October by the Federal Government because we had not mailed our absentee ballots to the overseas citizens 45 days before the election. For that reason, all counties in the State of Montana had to keep their results open until 14 days after the election. She said this in itself presented many problems because people came to the caucuses in Helena not knowing if they had been elected or not. Ms. Lund passed out a handout and then explained it to the Committee. She said the first page is a list of the deadlines, present law versus HB-288 (attached hereto marked Exhibit "1" and by this reference made a part hereof). Page 2 is a fact sheet, which Representative Thoft covered. Page 3 addresses the ballot schedule. The next set of pages is the Secretary of State's report to the court about the absentee ballots that came in after the election day on November 6, 1984, and were counted and added to the totals. The last set of pages is the Secretary of State's directions to the election judges, and then a fold-out of a calendar of election events. (For more of Ms. Lund's testimony see Exhibit "2" attached hereto and by this reference made a part hereof.)

C. Hal Manson, American Legion, supports this bill. Mr. Manson said that they had many members worldwide and that 14 days is not adequate to get their absentee ballots and return them. He said that they should all be able to vote.

Mike Stephen, Montana Clerk & Recorders Association, supports this bill.

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: There were no committee questions.

Representative Thoft closed by asking the Committee to pass this bill. HOUSE BILL 288 is closed.

EXECUTIVE ACTION ON HOUSE BILL 288: Senator Conover moved that HOUSE BILL 288 be concurred in. Question was called, and the Committee voted unanimously that HOUSE BILL 288 BE CONCURRED IN. (Senator Harding will carry this to the floor.)

CONSIDERATION OF HOUSE BILL 724: Representative Kerry Kyser, House District 74, is the sponsor of this bill entitled, "AN ACT PROVIDING THAT A SPECIAL ADDITIONAL MILL LEVY FOR A HOSPITAL DISTRICT MAY BE VOTED UPON AT A PRIMARY ELECTION IN EITHER AN ODD- OR EVEN-NUMBERED YEAR; AMENDING SECTION..., MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Representative Keyser said that this provides an additional mill levy may be voted on for a hospital district in an odd or even numbered year. He said at present it can only be voted on in odd-numbered years, and this presented problems in that they sometimes had to wait two years before putting this on the ballot and implementing it. He said that the county commissioners would determine if this could was needed. Representative Kyser said this does not automatically allow it, it simply says commissioners can make that request and put it to a vote of the people.

PROPONENTS: Bill Leary, Montana Hospital Association, supports this bill for all the reasons listed above. Mr. Leary said many of their hospital districts were in rural areas.

Elmer Hodvedt, Madison Valley Hospital, supports this bill. He said that they do need this money as soon as possible. He said they were going to save their hospital if at all possible, and that they needed the tax money as soon as possible, the people willing.

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: Senator Harding wanted to know if these hospital districts involved a whole county. Representative Kyser replied that there were small districts in the county.